

SECTION 1: GENERAL PROVISIONS AND DEFINITIONS

- A. Title.** These Regulations shall be known as “The Gallatin County Subdivision Regulations” referred to throughout the document as “Subdivision Regulations” or “these Regulations.”
- B. Authority.** Authorization for adopting these Regulations is the Montana Subdivision and Platting Act (MSPA). [Title 76, Chapter 3, Montana Code Annotated (MCA)].
- C. Jurisdiction.** These Regulations govern the subdivision of land within the jurisdictional area of the governing body of Gallatin County.

If a proposed subdivision lies within one mile of a third class city or town or within two miles of a second-class city or within three miles of a first class city, the county governing body must submit the preliminary plat to the city or town governing body or its designated agent for review and comment. If a proposed subdivision lies partly within an incorporated city or town, the preliminary plat must be submitted to, and approved by, both the city or town and the county governing bodies.

If a proposed subdivision is located in a rural school district, the governing body shall provide a summary of the information contained in the subdivision application and preliminary plat to school district trustees.

These Regulations supplement all other regulations, and where they are at variance with other laws, regulations, ordinances, or resolutions, the more restrictive requirements apply. Other regulations include, but are not limited to, zoning regulations, floodplain regulations, building codes, development codes, and fire codes.

- D. Purpose.** The purpose of these Regulations are to promote the public health, safety, and general welfare by regulating the subdivision of land; prevent the overcrowding of land; lessen congestion in the streets and highways; to provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public improvements; to require development in harmony with the natural environment; to promote preservation of open space; to promote cluster development approaches that minimize costs to local citizens and that promote effective and efficient provision of public services; to protect the rights of property owners; and to require uniform monumentation of land subdivisions and transferring interests in real property by reference to a plat or certificate of survey. [76-3-102, MCA]

These Regulations are intended to comply with Part 5 of the MSPA, and are intended to promote:

1. Orderly development of Gallatin County.
2. Coordination of roads within subdivided land with other roads, both existing and planned.
3. Dedication of land for public roadways and for public utility easements.
4. Proper physical and legal road access, including obtaining necessary easements and the improvement of roads.
5. Adequate open spaces for travel, light, air and recreation.
6. Adequate transportation, water, drainage, and sanitary facilities.
7. Avoidance or minimization of congestion.
8. Avoidance of subdivisions, which would involve unnecessary environmental degradation.
9. Requirement that subdivision development be in harmony with the natural environment.
10. Avoidance of danger or injury by reason of natural hazard or the lack of water, drainage, access, transportation or other public improvements.
11. Avoidance of excessive expenditure of public funds for the supply of public improvements and services.
12. Manner and form of making and filing of plats for subdivided lands.
13. Administration of these Regulations, by defining the powers and duties of approving authorities, including procedures for the review and approval of all subdivision plats covered by these provisions.
14. Implementation in accordance with the goals and policies of the Gallatin County Growth Policy and Gallatin County zoning districts.

E. Severability Clause. If a court of competent jurisdiction holds any word, phrase, clause, sentence, paragraph, section, or other part of these regulations invalid, that judgment will affect only the part held invalid.

Insofar as these Regulations are more restrictive than any other local law, these Regulations shall be controlling, and if any other law is more restrictive, it shall take precedence over these Regulations.

F. Conditions. Regulation of the subdivision of land and the imposition of reasonable conditions to land subdivision is an exercise of valid police power delegated by the state of Montana to Gallatin County. Subdividers have the duty to comply with reasonable conditions for design, dedication, improvement, and restrictive use of the land so as to promote the physical and economic development of Gallatin County and to the safety and general welfare of the future subdivision lot owners and of the community at large.

G. General Terms. Terms used throughout these Regulations are abbreviated as follows:

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| 1. | Montana Subdivision and Platting Act: | <i>MSPA</i> |
| 2. | Gallatin County Clerk and Recorder: | <i>Clerk and Recorder</i> |
| 3. | Gallatin County Commission: | <i>County Commission or Commission</i> |
| 4. | Gallatin County: | <i>County</i> |
| 5. | Gallatin County Attorney: | <i>County Attorney</i> |
| 6. | Gallatin County District Court. | <i>District Court</i> |
| 7. | Gallatin County City-County Health Department: | <i>GCCHD</i> |
| 8. | Montana Department of Environmental Quality: | <i>MDEQ</i> |
| 9. | Montana Department of Transportation: | <i>MDT</i> |
| 10. | Natural Resources Conservation Services: | <i>NRCS</i> |
| 11. | County, City-County planning boards as established under Title 76, Chapter 1, MCA: | <i>planning board</i> |
| 12. | Various planning departments throughout Gallatin County: | <i>planning department</i> |

13. Gallatin County Subdivision Regulations: *Regulations*
14. Gallatin County Road and Bridge Department: *Road Department*
15. Gallatin County Road and Bridge Superintendent: *Road Superintendent*
16. Gallatin County Treasurer: *Treasurer*
17. United States Geological Survey: *USGS*
18. Gallatin County Weed Control Department: *Weed Department*

H. Definitions. Whenever the following words or phrases appear in this text, they shall have the meaning assigned to them by this subsection. When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular; the word "shall" is always mandatory, and the word "may" indicates use of discretion in making decisions.

1. Adjoining landowner or property owner. The owner of record of a parcel of land that is contiguous, at any point, or land that is separated from the parcel by a road, watercourse or deeded right-of-way.
2. Agriculture. The cultivation or tilling of soil for the purpose of producing vegetative materials for sale or for use in a commercial operation and/or the raising or tending of animals for use or commercial sale. All aspects of farming or ranching including the cultivation or tilling of soil; dairying; the production, cultivation, growing, harvesting of agricultural or horticultural commodities; raising of livestock, bees, fur-bearing animals or poultry; and any practices including, forestry or lumbering operations, including preparation for market or delivery to storage, to market, or to carriers for transportation to market. Agriculture does not include gardening for personal use, keeping of house pets, or landscaping for aesthetic purposes.
3. Agricultural Water User Facility. Those facilities which provide water for irrigation or stock watering to agricultural lands for the production of agricultural products. These facilities include, but are not limited to, ditches, head gates, pipes, and other water conveying facilities.
4. Aliquot Part. An equal division of a government section as described by the 'Manual for the Survey of The Public Lands of the United States.'
5. Base Flood. A flood having a one percent (1%) chance of being equaled or exceeded in any given year. A base flood is the same as a 100 – year flood.

6. Block. A piece or tract of land entirely surrounded by public highways roads, waterways, railway, right-of-way, or parks, etc., or a combination thereof. A group of lots, tracts or parcels within well defined and fixed boundaries.
7. Central Sewage System. A public sewage system as defined in 75-6-102 MCA and ARM 17.36.101.
8. Central Water System. A public water supply system as defined in 75-6-102 MCA and ARM 17.36.101.
9. Certificate of Survey. A drawing of a field survey prepared by a registered land surveyor for the purpose of disclosing facts pertaining to boundary location.
10. Common Open Space or Area. Undeveloped land within a subdivision that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the development. Common open space shall not be part of individual residential lots. It shall be substantially free of structures, but may contain historic structures and archaeological sites, and/or recreational facilities for residents, including but not limited to, meeting rooms, benches, picnic tables, and interpretive signage as indicated on an approved development plan.
11. Comprehensive Plan. A growth policy as defined in Section 76-1-601, MCA.
12. Condominium. A form of individual ownership with unrestricted right of disposal of one or more units in a multiple unit project with the land and all other parts of the project held in common ownership or use with owners of the other units, pursuant to Title 70, Chapter 23, MCA.
13. Conservation Easement. The grant of a property right or interest from the property owner to a unit of government or nonprofit conservation organization stipulating that the described land shall remain in perpetuity (or defined time period) in its natural and open state, precluding future or additional development (with the exception of any allowable structures or facilities).
14. Contiguous Tract. For the purpose of these Regulations, a parcel of land next to, abutting, adjacent to, adjoining or touching another individual parcel of land, including tracts which are separated by public right-of-way.

15. Covenant. An agreement, or restriction, in writing, of two or more parties by which any of the parties pledges to the others that something is done or shall be done. Covenant or Restrictive Covenant: A limitation contained in a deed or other document that restricts or regulates the use of the real property.
16. Dedication. The deliberate appropriation of land by an owner for any general and public use, reserving no rights which are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted (76-3-103(3), MCA).
17. Division of Land. The segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to the MSPA. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land (76-3-103(4), MCA).
18. Dwelling Unit. Any building or portion thereof providing complete, independent and permanent living facilities for one family.
19. Easement. A grant by a property owner to specific persons or to the public a right to use land for a specific purpose or purposes, in which said property owner agrees not to build, create or construct any obstruction, building, engineering works or other structures over, under, or that would interfere with said use.
20. Engineer (Registered Professional Engineer). A person licensed in conformance with the Montana Professional Engineers Registration Act (sections 37-67-101 through 37-67-332, MCA) to practice engineering in the state of Montana (engineer). Title 37, Chapter 67, MCA
21. Final Plat. The final drawing showing the subdivision and dedication which is prepared for filing for record with the county clerk and recorder and contains all elements and requirements set forth in MSPA and the Subdivision Regulations.
22. FIRM-Flood Insurance Rate Map. The map on which the Federal Emergency Management Agency (FEMA) has delineated both the 100-year floodplains and the risk premium zones.

23. First Minor Subdivision. A proposed minor subdivision from a tract of record that has not been subdivided or created by a subdivision under the MSPA, or has not resulted from a tract of record that has had more than five parcels created from that tract of record under 76-3-201 or 76-3-207, MCA, since July 1, 1973. [76-3-609(2), MCA].
24. Flood of 100 Year Frequency. A flood magnitude which has a one percent chance of occurring in any given year , or is a flood magnitude which is expected to recur on the average of once every 100 years [76-5-103 (9), MCA].
25. Flood. The water of any watercourse or drainage which is above the bank or outside the channel and banks of such watercourse or drainage [76-5-103 (8), MCA].
26. Floodplain. The area adjoining the watercourse or drainage that would be covered by the floodwater of a flood of 100 year frequency [76-5-103 (10), MCA]. The floodplain consists of a floodway and floodway fringe.
27. Floodway. The channel of a stream or river and the adjacent over bank areas that must be reserved in order to discharge a base flood without cumulatively increasing the water surface elevation more than one-half (1/2) foot.
28. Floodway Fringe. That portion of the floodplain outside the limits of the floodway.
29. Governing Body. The governing authority of a county, city, town, or consolidated local government organized pursuant to law [76-3-103 (7), MCA]. The governing body referred to in these Regulations is the Board of Gallatin County Commission.
30. Growth Policy. An official public document adopted and used by a local government as a general guide for development and conservation decisions. It is not a regulation; rather, it is an official statement of public policy to guide growth and change. The required and optional elements of a growth policy are listed in Title 76, Chapter 1, Part 6, MCA.
31. Health Authorities. The Montana Department of Environmental Quality, local health officer, local sanitarian, or other authorized representative.
32. Immediate Family. A spouse, children by blood or adoption, and parents.
33. Irregularly Shaped Tract of Land. Means a parcel of land other than a aliquot part of the United States Government survey section or a United

States Government lot, the boundaries or areas of which cannot be determined without a survey or trigonometric calculation.

34. Legal Access. Where access to a subdivision, or any lot within a subdivision, is provided by a dedicated public road right-of-way or a public road easement.
35. Limited Access. A way or means of allowing physical entrance to land at controlled locations or points. A “no-access” strip or line may be placed on a plat as a means of limiting access.
36. Limited Access Roadway. A road especially designed for through traffic, over which abutting land owners have no right to direct access.
37. Local Services. Any and all services that local governments, public or private utilities are authorized to provide for the benefit of their citizens. These services include, but are not limited to, law enforcement, fire protection, water supply, recreation, streets and roads, parks, libraries, schools, wastewater and solid waste collection and disposal.
38. Lot. A parcel, plot or other land area created by subdivision for sale, lease, or rent.
39. Lot Measurements:
 - A. Lot Depth. The average distance from the front lot line to the rear lot line.
 - B. Lot Width. The average distance between side lot lines.
 - C. Lot Frontage. The width of the front lot line.
 - D. Lot Area. The area of a lot determined exclusive of highway, alley, road, or other right-of-way.
40. Lot Types:
 - A. Corner Lot. A lot located at the intersection of two roads.
 - B. Interior Lot. A lot with frontage on only one road.
 - C. Double Frontage Lot. A lot with both front and rear lot lines abutting a road.

41. Major Subdivision. A subdivision containing six or more lots, which does not qualify for review as a minor subdivision.
42. Minor Subdivision. A subdivision that creates five or fewer lots.
43. Manufactured Home. A detached residential dwelling unit, which may consist of one or more sections, fabricated at a factory and designed to be towed on its own chassis to a building site for occupation as a dwelling with or without a permanent foundation. The term includes, but is not limited to, “trailer homes,” “house trailers,” and “manufactured homes” whether or not the unit has been constructed after July 1, 1976, in conformance with Federal Manufactured Home Construction and Safety Standards. The term does not include “modular” or “factory-built buildings” that are fabricated at a factory in accordance with the Uniform Building Code Standards applicable to site-built homes, and are transported to the site for final assembly on a permanent foundation.
44. Manufactured or Mobile Home Lot or Space. A designated portion of a manufactured home park designed for the accommodation of one manufactured home and its accessory buildings or structures for the exclusive use of the occupants.
45. Manufactured or Mobile Home Stand. That area of a manufactured home lot which has been prepared for the placement of a manufactured home.
46. Manufactured or Mobile Home Park. Any real property under single ownership or control for which the primary purpose is the placement of two or more manufactured homes for permanent residential dwellings and for the production of income. A manufactured home park does not include real property used for the display and sale of manufactured units, nor does it include real property used for seasonal purposes only, as opposed to year-round occupancy. Home sites within the park are leased to individual homeowners, who retain customary leasehold rights.
47. Manufactured or Mobile Home Subdivision. A subdivision designed and/or intended for the sale of lots for siting manufactured homes.
48. Mobile Home. A transportable, manufactured structure, suitable for year-round single-family occupancy and having water, electrical, and sewage connections similar to those of conventional dwellings. This definition applies only to units constructed prior to the Federal Manufactured Housing

Construction and Safety Standards Act of 1974, which became effective June 15, 1976. Compare to the definition of manufactured home.

49. Monument (Permanent Monument). Any structure of masonry, metal or other permanent material placed in the ground which is exclusively identifiable as a monument to a survey point, expressly placed for surveying reference (ARM 8.94.3001).
50. MSPA. Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
51. Natural Environment. The physical conditions which exist within a given area, including land, water, mineral, flora, fauna, sound, light, and objects of historic or aesthetic significance.
52. Open Space. A land or water area devoid of buildings and other physical structures except where accessory to the provision of recreation.
53. Ordinary High Water Mark. The outermost line that water impresses on land by covering it for sufficient periods to cause physical characteristics that distinguish the area below the line from the area above it. Characteristics of the area below the line include, when appropriate, but are not limited to deprivation of the soil of substantially all terrestrial vegetation and destruction of its agricultural vegetative value. A floodplain adjacent to surface waters is not considered to lie within the surface waters' high-water marks (23-2-301 MCA).
54. Pathway. A facility that accommodates the recreational and/or transportation needs of pedestrians and bicyclists, including sidewalks, bike lanes, boulevard trails, and trails.
55. Phased Development. A large scale development which is designed to be completed, one defined geographic area (phase) at a time, with each phase standing on its own in terms of access, circulation, utilities, parks and open space, and so on, in the event subsequent phases are delayed or canceled.
56. Physical Access. A state or federal highway, a public road maintained by Gallatin County, or a road built to the standards of Tables 1 and 2 of these Regulations.
57. Planned Unit Development (PUD). A land development project consisting of residential clusters, industrial parks, shopping centers, office buildings, parks, or any combination thereof which comprises a planned mixture of

land uses built in a pre-arranged relationship to each other and having open space and community facilities in a common ownership or use.

58. Planning Board. The Gallatin County Planning Board.
59. Planning Department. The Gallatin County Planning Department.
60. Plat:
 - a. Preliminary Plat. A legible and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing body as more specifically set forth in these regulations and the MSPA.
 - b. Final Plat. The final drawing of the subdivision and dedication required to be prepared for filing for record with the county clerk and recorder containing all elements and requirements set forth in these regulations and the MSPA. (Title 76, Chapter 3, MCA).
 - c. Amended Plat. The final drawing of any change to a filed platted subdivision , or any lots within a filed platted subdivision.
 - d. Vacated Plat. A plat which has been voided under the provisions of MCA 76-3-305, 7-5-2501, 7-5-2502, 7-14-2616 (1) and/or (2), 7-14-2617, 7-14-4114 (1) and/or (2), and 7-14-3115.
61. Private Improvement. Private improvements are the same types of improvements as defined under PUBLIC IMPROVEMENTS, except the structure or facility has not been dedicated to the public or otherwise acquired by a government entity for public use.
62. Property Owner. Any person, firm, corporation or other entity shown as being the legal owner of a tract, parcel or lot in the records of the County Clerk and Recorder.
63. Property Owners' Association. An association whether incorporated or not, formed to own, manage, or maintain common property or facilities.
64. Public Health and Safety. A condition of optimal well-being, free from danger or injury, for a community at large, not merely for an individual or small group of persons.

65. Public Improvement. Any structure or facility constructed to serve more than one lot in a subdivision which is dedicated to the public or otherwise acquired by a government entity for public use. Examples of typical public improvements include parks, streets or roads, sidewalks, curbs, gutters, street lighting, utilities, and systems for water supply, sewage disposal, drainage, or fire protection.
66. Public Road or Street. A road or street is public if its right-of-way has been dedicated or acquired for public use.
67. Public Sewage System. A system of collection, transportation, treatment and disposal of sewage that serves 15 or more families or 25 or more persons daily for any 60 or more days in a calendar year (75-6-102 MCA and ARM 17.36.101).
68. Public Water Supply System. A system for the provision of water for human consumption from any community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that has at least 15 service connections or that regularly serves at least 25 persons daily for any 60 or more days in a calendar year. (75-6-102 MCA and ARM 17.36.101).
69. Recreational Vehicle Park. A place used for public camping where persons can rent space to park individual camping trailers, pickup campers, motor homes, travel trailers or automobiles for transient dwelling purposes.
70. Recreational Vehicle Space. A designated portion of a recreational vehicle park designed for the placement of a single recreational vehicle and the exclusive use of its occupants.
71. Rights-of-Way. A linear public way established or dedicated for public purposes by a duly recorded plat, deed, easement, grant, prescription, condemnation, governmental authority or by operation of law, intended to be occupied by a street, motorized and non-motorized vehicle path, railroad, electric transmission lines, water line, sanitary sewer line, storm sewer line, or other similar uses.
72. Roadway. That portion of the road right-of-way which is improved or is proposed to be improved to carry traffic and provide for the on-road storage of automobiles; where curb is provided, the roadway is measured from face-of-curb to face-of-curb.
73. Road and Street Types: For purposes of these regulations, street types are defined as follows:

- a. Alley. A public or private way reserved as a secondary means of access to the rear or side of lots which abut on and are served by public roads.
- b. Arterial. A street or road having the primary function of moving traffic with emphasis on a high level of mobility for through movement and the secondary function of providing access to adjacent land. Arterials generally carry relatively large volumes of traffic. Arterials have two to four lanes of moving traffic and should provide only limited access to abutting property.
- c. Collector. A street or road having the equally important functions of moving traffic and providing access to adjacent land. Collector streets have two moving traffic lanes and up to two parking lanes.
- d. Local Streets. A street or road having the primary function of serving abutting properties, and the secondary function of moving traffic. Local streets have two moving lanes of traffic, up to two parking lanes, and provide access to abutting properties.
- e. Cul-de-sac. A street having only one outlet for vehicular traffic and terminating in a turn-around area.
- f. Loop. A local street which begins and ends on the same street, generally used for access to properties.
- g. Frontage Access (Service Road). A local or collector street, usually parallel and adjacent to an arterial or major collector, which provides access to abutting properties and controls traffic access to arterials or collectors.
- 74. Structure. A combination of materials to form a building, edifice or any piece of work for use, occupancy, or ornamentation whether installed on, or below the surface of land or water.
- 75. Subdivider. Any person, firm, or corporation, or other entity who causes land to be subdivided or who proposes a subdivision of land.
- 76. Subdivision. A division of land or land so divided which creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any re-subdivision and further includes a condominium or area, regardless of its size, that provides or will provide multiple space for recreational camping vehicles or mobile homes [76-3-103(16), MCA].

77. Subdivision Administrator. The person or persons authorized by the governing body to perform the duties of review and administration as set forth in these Regulations.
78. Subsequent Minor Subdivision. Any subdivision of five or fewer parcels that is not a first minor subdivision.
79. Surveyor (Registered Land Surveyor). A person licensed in conformance with the Montana Professional Engineers, Registration Act (Section 37-67-101 through 37-67-332, MCA) to practice surveying in the state of Montana.
80. Swale. A drainage channel or shallow depression designed to direct surface water flow.
81. Title of Report (Abstract of Title, Subdivision Guarantee, or Platting Report). A report from a title service company on the condition of title to the property proposed for subdivision, which identifies the owners of record of the property, lien holders, encumbrances, easements and restrictions of record, and all other conditions of title of public record, and accompanied by a guarantee of the accuracy of the report from the title insurance agent or its underwriter.
82. Tract. Land area proposed to be subdivided.
83. Tract of Record. An individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office [76-3-103(17)(a), MCA].
84. Un-Subdivided Land. Existing transferable parcels of land which are not recorded as parcels or lots within a platted subdivision. Parcels of land not created through the Montana Subdivision and Platting Act or local subdivision review process.
85. Variance, Undue Hardship. The physical surroundings, shape, or topographical conditions of the property involved preclude the development of the property. Undue hardship does not include personal or financial hardship, or any hardship that is self imposed.
86. Vicinity Sketch. A map at a scale suitable to locate a proposed subdivision, showing the boundary lines of all adjacent properties and streets and other information necessary to determine the general location of the proposed subdivision.

87. Watercourse. Any natural stream, river, creek, drainage, waterway, gully, ravine or wash in which water flows either continuously or intermittently and has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow. The term watercourse shall not be construed to mean any facility created exclusively for the conveyance of irrigation water.
88. Wetland. Areas that are inundated and saturated by surface or groundwater at a frequency or duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.
89. Wildlife. Animals that are neither human, domesticated, nor feral descendants of commonly domesticated animals.
90. Wildlife Habitat. The place or type of habitat where wildlife naturally lives.

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